

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of:)	
)	
Thompson Cable Vision Company)	CSR 5863-E
)	
Petition for Determination of Effective)	
Competition in Mount Orab, Ohio)	

MEMORANDUM OPINION AND ORDER

Adopted: November 7, 2002

Released: November 12, 2002

By the Deputy Chief, Policy Division, Media Bureau:

I. INTRODUCTION

1. Thompson Cable Vision Company ("Thompson") has filed with the Commission a petition pursuant to Section 623(a)(1) of the Communications Act of 1934, as amended ("Communications Act") and Sections 76.7(a)(1) and 76.905(b)(1) of the Commission's rules for a determination of effective competition in Mount Orab, Ohio (the "Franchise Area").¹ Thompson alleges that its cable system serving the Franchise Area is subject to effective competition and is therefore exempt from cable rate regulation. Thompson claims the presence of effective competition in the Franchise Area because fewer than thirty percent of the households subscribe to the cable services of its cable system. No opposition to the petition was filed.

II. DISCUSSION

2. In the absence of a demonstration to the contrary, cable systems are presumed not to be subject to effective competition,² as that term is defined by Section 76.905 of the Commission's rules.³ The cable operator bears the burden of rebutting the presumption that effective competition does not exist with evidence that effective competition is present within the relevant franchise area.⁴ Based on the record in this proceeding, Thompson has met this burden.

3. Section 623(l)(1)(A) of the Communications Act provides that a cable operator is subject to effective competition, and therefore exempt from cable rate regulation, if "fewer than 30 percent of the households in the franchise area subscribe to the cable service of the cable system."⁵ For these purposes, the Commission accepts census data as an appropriate measure of households and defines households as

¹ 47 U.S.C. § 543(a)(1); 47 C.F.R. §§ 76.7(a)(1), 76.905(b)(1).

² 47 C.F.R. § 76.906.

³ 47 C.F.R. § 76.905.

⁴ See 47 C.F.R. §§ 76.906 & 907.

⁵ 47 U.S.C. § 543(l)(1)(A).

occupied housing units.⁶

4. Thompson submits sufficient evidence which demonstrates that its cable system serves less than 30 percent of households in the Franchise Area. Thompson provided 2000 Census Bureau household data that indicates that there are 879 households in its Franchise Area.⁷ Thompson also provides the count of actual subscribers in the Franchise Area, which it used to calculate a subscriber-to-household penetration rate for the Franchise Area. The data establishes that Thompson has a total of 240 subscribers in its Franchise Area of 879 households resulting in a penetration rate of 27 percent.⁸ Based on this record, we conclude that Thompson has demonstrated that its cable system is subject to low penetration effective competition.

III. ORDERING CLAUSES

5. Accordingly, **IT IS ORDERED** that the petition for a determination of effective competition filed by Thompson Cable Vision Company **IS GRANTED**.

6. This action is taken pursuant to authority delegated under Section 0.283 of the Commission's rules.⁹

FEDERAL COMMUNICATIONS COMMISSION

Steven A. Broecker
Deputy Chief, Policy Division, Media Bureau

⁶ See *Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992*, 9 FCC Rcd 4316, 4325-26 (1994).

⁷ Petition at 2 and Exhibit C.

⁸ *Id.* at 2 and Exhibit B.

⁹ 47 C.F.R. § 0.283.